


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
UNITED STATES COURTHOUSE
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CHAMBERS OF
COLLEEN MCMAHON
UNITED STATES DISTRICT JUDGE

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TO ALL COUNSEL IN: *United States ex rel Kester v. Novartis* (11 Civ. 8196) (CM)
and any and all related cases

FROM: Judge McMahon 

RE: Trial of Myfortic and ExJade cases

DATED: April 2, 2015

Counsel:

After reviewing the letters submitted by everyone involved in the Myfortic and ExJade trials I am setting the trial – which will be a single trial – for Monday, November 2, 2015. That is a FIRM TRIAL DATE. I am pleased that the month of November works for everyone, not least of all for me.

I have carefully considered the arguments raised by Novartis in its letter of September 26, 2014, but I am not persuaded that separate trials are either necessary or desirable. After the final pre-trial order is filed, we can discuss the possibility of organizing the evidence so that issues are submitted to the jury *seriatim*, but we will not be conducting two trials. Before making this decision (which I put off until discovery was all but ended), I consulted with Magistrate Judge Francis, who knows the record far better than I do at this moment. He concurs in my decision.

The final pre-trial order is due June 26, 2015. Notwithstanding the voluminous amount of discovery that you have managed to take, I am taking you at your word that this case can be tried in a month or less. I have a total of six weeks (including Thanksgiving week) to get this case tried to verdict. I will employ a number of time management issues, including dealing with the admissibility of exhibits at a pre-trial conference to be held the week before the trial. I will expect the parties to avoid duplication in questioning; aligned parties should divide the work and share the load. When I see the pre-trial order I will decide on the number of hours each side (Government/Relator/States is one side; Novartis and the Pharmacy Defendants are the other) will have on its feet (that is, for direct of their own witnesses and cross of opposing witnesses). You will be on the clock.